Chrysler, LLC *and* Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO. Cases 7–CA–50862 and 7–CA–50863

July 16, 2010

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER AND BECKER

On September 9, 2008, Administrative Law Judge Earl E. Shamwell Jr. issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed a reply brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions[2] and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge, and orders that the Respondent, Chrysler, LLC, Auburn Hills, Michigan, its officers, agents, successors, and assigns, shall take the actions set forth in the Order.

Dated, Washington, D.C. July 16, 2010

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

Craig Becker, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] The Respondent excepted to the judge's decision to deny its request to defer to arbitration the parties' dispute over the Union's information requests. Pursuant to *Collyer Insulated Wire*, 192 NLRB 837 (1971), the Board has consistently refused to defer information disputes to arbitration. See, e.g., *Shaw's Supermarkets*, 339 NLRB 871, 871 (2003). Member Schaumber would defer information disputes to arbitration where an information request is encompassed by the parties' contractual arbitration clause. See *Team Clean, Inc.*, 348 NLRB 1231, 1231 fn. 1 (2005). In the absence of a majority to reverse Board precedent in this case, Member Schaumber need not reach the issue of whether deferral is appropriate here. Rather, he agrees to apply current Board law and adopt the judge's decision.

Eric S. Cockrell, Esq., for the General Counsel.

K.C. Hortop, Esq. and *John T. Landwehr, Esq. (Eastman & Smith Ltd),* of Novi, Michigan, and Toledo, Ohio, for the Respondent.

DECISION

STATEMENT OF THE CASE

EARL E. SHAMWELL JR., Administrative Law Judge. These consolidated cases were heard by me on April 21 and 22, 2008, in Detroit, Michigan, pursuant to an original charge filed by Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO (the Union) in Case 7–CA–50862 on November 15, 2007, against Chrysler, LLC (the Respondent) and an original charge in Case 7–CA–50863 filed by the Union against the Respondent, also on November 15, 2007.

On January 29, 2008, the Regional Director for Region 7 of the National Labor Relations Board (the Board) issued his order consolidating cases and complaint, and scheduled the matter for hearing. Having been granted an extension of time to file its answer by the Regional Director, the Respondent on February 15, 2008, timely filed its answer to the consolidated complaint, essentially denying the commission of any unfair labor practices.

The consolidated complaint alleges that the Respondent violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by failing to provide the Union with certain information requested by it on several occasions in calendar year 2007.[1]

At the hearing, the parties were represented by counsel and were afforded full opportunity to be heard, examine and cross-examine witnesses, and introduce evidence. On the entire record, including my observation of the demeanor of the witnesses and after considering the posthearing briefs of the General Counsel and the Respondent, I make the following.

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a limited liability corporation with an office and business in Auburn Hills, Michigan, has maintained offices, plants, and places of business in various States throughout the United States and has been engaged in the manufacture, nonretail sale, and distribution of automobiles and other automotive products.[2]

[1] All events pertinent to the charges herein occurred in 2007.

[2] The parties have stipulated and agreed that this matter only involves the Respondent's facility located at 1000 Chrysler Drive, Auburn Hills, Michigan 48326.

During calendar year 2007, a representative period, in conducting its operations the Respondent derived gross revenues in excess of $500,000 and purchased and received at its Michigan facilities goods and materials valued in excess of $50,000 from points outside the State of Michigan. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION

The Respondent admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

III. BACKGROUND[3]

Since at least 1978, the Union (through the International) has been the statutory exclusive collective-bargaining representative of about 60 different bargaining units composed of around 2900 employees of the Respondent.[4] The subject of this proceeding is unit 1 of Local 412 which is composed of around 500 employees employed at the Auburn Hills Chrysler Tech Center. Unit 1 employees include designers, body, chassis electrical dry modelers, DDL specifiers, woodshop checkers, clerks, graphic illustrators, and graphic analysts. Graphic illustrators are members of the bargaining unit represented by Local 412; the graphic analysts are not members of the bargaining unit represented by the local. The Respondent admits that the graphic illustrators are a constituent part of the employees of this unit of employees of the Respondent deemed appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

On May 4, 2007, the Union through one of its officers, Richard Harter, sent via e-mail the following memorandum to John Borowski,[5] manager of the Respondent's engineering graphics, standards and information security department in which the graphic illustrators were employed.

> Dear John:
>
> Please provide me with the following information:
>
> 1. A copy of the complete APL presentation from 4/19/07.
>
> Please provide the information by 5/11/07. If you have any questions or need clarification please feel free to call.[6]

On May 16, 2007, Borowski responded by e-mail to Harter's request as follows:

> Rich,
>
> We are in receipt of your Request for Information dated 05/04/2007. We are currently reviewing the request and determining what information is relevant and/or available. We will respond within a reasonable amount of time.[7]

On May 23, 2007, Borowski e-mailed Harter informing him that the Respondent's response to the Union's May 4 e-mail had been left at his (Borowski's) desk, and that Harter could either pick it up there or have it e-mailed through the Chrysler Internal Mail System. (CIMS).[8]

The Respondent's response in full stated the following:

> To: Rich Harter
> Steward–Local 412 Unit 1 District 2
>
> *Re: request for information dated 05/04/07 –*
> "*A copy of the complete APL presentation from 4/19/07*"
>
> The AP presentation was presented to the Graphic Illustrators for educational reasons as a result of questions raised by some of the Employees in my department. The presentation provided insight on the role of the APL group and how EBOM interfaces with our department functions.
>
> The work preformed by the APL group has always been performed by Non-Bargaining Unit Employees. As a result, Management does not see the relevance of providing information about the group, over and above what was presented to the group on 4/19/07.[9]

On October 2, 2007, the Union, through Mike Birr, serving as the recently elected steward for unit 1, sent the following memorandum to Borowski.

> Re: Grievances 07–1–2023–2063
> Date: 10/02/07

[Note: the complaint states incorrectly that the facility in question is located at 800 Chrysler Drive. The Respondent's counsel corrected the address on the record.]

[3] Certain matters associated with this case are not in dispute or are not necessarily material to the resolution of the controversy. In this section, I have treated certain matters of record as established fact either because the parties have stipulated and agreed to their veracity, the matters involved are not in serious dispute, or are based on the corroborated, hence credible, evidence deserving of credit. To the extent, contrary evidence was adduced at the hearing, I have not credited that evidence.

[4] GC Exhs. 3, 4, and 5 incorporate the relevant collective-bargaining agreements between the parties covering the periods September 29, 2003, through September 14, 2007 (GC Exh. 3); and October 12, 2007, the approximate date of the parties' latest agreement (GC Exh. 4). Around August 3, 2005, the Respondent and Local 412 entered into a supplemental agreement (GC Exh. 5). At the hearing, the Respondent stipulated and agreed to the authenticity of GC Exhs. 3 and 5.

The Respondent also agreed that 2007 UAW/Chrysler contract settlement agreement (unpublished letters) (GC Exh. 4) has been published by the UAW, but that in this form does not reflect the parties' current agreement. I received GC Exh. 4 based on the credible testimony of Richard Harter, a current officer of Local 412, that the document represents the Union's current collective-bargaining agreement with the Respondent, although it had not been officially published at the time of the hearing. Notably, this latest agreement, whether published or not, does not vary materially from the expired agreement, and in fact includes the evidently agreed-upon amendments to the current agreement.

It should be noted that under and pursuant to the collective-bargaining agreements in question, the International Union has assigned its representative responsibilities for unit 1 to Local 412.

[5] Borowski is an admitted supervisor; however, he did not testify at the hearing.

[6] See GC Exh. 12, a copy of this memorandum. APL stands for Advance Parts List. It should be noted at this time Harter was serving as the steward for unit 1.

[7] See GC Exh. 13.

[8] See GC Exh. 14, a copy of this memorandum.

[9] See GC Exh. 15. The memorandum is dated May 22, 2007.

Dear John;

In order to properly prepare for the above and possible future grievance meetings, please provide me with the following information;

1. A copy of the complete APL presentation from 4/19/07 (second request). This Information is absolutely necessary for the Union to prepare for grievance meetings and will establish the Union's claim the purpose of the presentation was for the undermining of the Union.

2. Copies of all educational training received/earned by the following Supervisors including but not limited to: formal education (degrees, etc.), enrichment training, work provided training (violence in the workplace, labor relations training/counseling etc.).

Judy Petrovich
Dough Mehki
Randy Querro
Deborah Stephens
Tom Melnychenko
John Borowski (Manager)

3. Copies of all complaints made regarding the following Supervisors by present and former employees including but not limited to: verbal and written complaints, non-unit 1 grievances, NLRB charges, FMLA charges and Labor Relations behavioral counseling etc.

Judy Petrovich
Doug Mehki
Randy Querro
Deborah Stephens

4. Copies of all reviews for the following Supervisors which covered any periods/years they supervised graphics employees.

Judy Petrovich
Dough Mehki
Randy Querro
Deborah Stephens
Tom Melnychenko
John Borowski (Manager)

5. The total amount of hours spent on the following responsibilities. Also, please furnish the names of the employees that have performed the work and hours spent on each responsibility. If actual numbers are not available please approximate to the best of your ability.

Sales and Marketing
Owners Manuals
Labels
DTO
MOPAR
Corp. Quality–Service Kits
DCA
Product & Process Integration Wall
Component Analysis
Graphic Analyst Support
Data Sets
Misc. Engineering
Virtual Fleet

This request is made without prejudice to the Union's right to file subsequent request. Please provide the information by 10/12/07. If any part of this letter is denied or if any material is unavailable, please provide the remaining items as soon as possible, which the Union will accept without prejudice to its position that it is entitled to all documents and information called for in the request. If you have any questions or need clarification please feel free to call.[10]

On October 3, 2007, Harter, now serving as chairman of the unit 1 bargaining unit, directed a letter to Borowski regarding the issue of outsourcing/offloading. The letter stated as follows:

Dear John;

In order to assure contractual compliance regarding outsourcing, please provide the following information;

1. Dates and briefs detailing any discussions or meetings regarding the outsourcing, offloading, or transfer of operations (excluding transfer of Unit 80 EGIG work) of any EGIG work sine Sept. 2003. Please include the names of all parties that were involved in the discussions/meetings.

2. Any solicitations or contractual proposals received for the outsourcing or offloading of any EGIG work (excluding current MSX agreement).

3. Any solicitations or contractual proposals submitted for the outsourcing or offloading of any EGIG work (excluding current MSX agreement).

This request is made without prejudice to the Union's right to file subsequent request. Please provide the information by 10/12/07. If any part of this letter is denied or if any material is unavailable, please provide the remaining items as soon as possible, which the Union will accept without prejudice to its position that it is entitled to all documents and information called for in the request. If you have any questions or need clarification please feel free to call.[11]

On October 2, 2007, Borowski responded as follows to Birr's October 2 request for information.

Mike,

We are in receipt of your Request for information dated 10/02/2007. We are currently reviewing the request and determining what information is relevant and/or available. We will respond within a reasonable amount of time.[12]

On October 3, 2007, Borowski responded as follows to

[10] See GC Exh. 16. It should be noted that the persons listed in the letter are admitted supervisors in unit 1.
[11] See GC Exh. 20, a copy of the letter.
[12] See GC Exh. 27.

Harter's letter of October 3, 2007:

> Rich,
>
> We are in receipt of your Request for information dated 10/03/2007. We are currently reviewing the request and determining what information is relevant and/or available. We will respond within a reasonable amount of time.[13]

On December 7, 2007, Borowski responded by letter to Harter regarding the Union's October 3, 2007 request for information as follows:[14]

> Dear Rich,
>
> Please find my response to your October 3, 2007, Request for Information below in red:
>
> 1. This request is not relevant to any legitimate Union need. Management notes are not relevant to matters within the scope of the bargaining unit. General blanket requests without any link to bargaining unit matters are not presumptively relevant.
> 2. This request is not relevant to any legitimate Union need. General blanket requests without any link to bargaining unit matters are not presumptively relevant.
> 3. This request is not relevant to any legitimate Union need. General blanket requests without any link to bargaining unit matters are not presumptively relevant.

On about January 14, 2008, Harter responded to Borowski's December 7 letter, stating as follows:[15]

> 1. The Union is entitled to information related to any contemplation of outsourcing/offloading through the M-10 language of the NEA. Therefore, the Union has a very clear legitimate need for this information in order to comply with the Nat. Agreement procedures.
> 2. The Union is entitled to information related to any contemplation of outsourcing/offloading through the M-10 language of the NEA. Therefore, the Union has a very clear legitimate need for this information in order to comply with the Nat. Agreement procedures.
> 3. The Union is entitled to information related to any contemplation of outsourcing/offloading through the M-10 language of the NEA. Therefore, the Union has a very clear legitimate need for this information in order to comply with the Nat. Agreement procedures.
>
> Please let me know if you have any questions.

As of the hearing date, the Respondent has not provided any of the information requested by the Union.

[13] See GC Exh. 21.

[14] See GC Exh. 22. Borowski's response to the October 3 request tracked the request items which were written in a red highlight font. I have not included the Union's request above; rather, I have included only the Respondent's response to the three categories of requested information.

[15] See GC Exh. 23. Harter testified that he responded to Borowski, utilizing Borowski's December letter to him for the response. I have included only his response to Borowski, electing not to repeat the contents of the earlier communications.

IV. THE UNION'S RATIONALE AND EXPLICATION OF ITS INFORMATION REQUESTS

The General Counsel called the following union members to establish the charges in question.

William Ambrose Cahill testified that he has been employed by Chrysler for around 30 years, and as a graphic illustrator he is a member of the Union's unit 1 at the Auburn Hills facility; his department is designated EGIG which stands for Engineering Graphics Illustration Group.

Cahill described his job as one in which he works with designed models (parts) and through means of automated computer programs lays out the models into a readable format to illustrate the assembly process for the parts in question.

Cahill stated that graphic illustrators use programs such as Deep Exploration or Right Hemisphere to project the assemblers to another program called Adobe Illustrator, which in the end produces two dimensional graphic illustration of an assembly process. Cahill said he uses another company data base called EBOM—electric bill of materials—which permits the graphic illustrator to extract part numbers items such as decals, tire wheels, and trim panels, which are deemed relevant to the assembly process.

Cahill testified that John Borowski is the manager of the EGIG department. Cahill stated that around mid-April 2007, he became concerned about a meeting that was to take place on April 19 regarding the APL analyst job, a nonbargaining unit position within his department. Cahill said that it was his belief that the Company was going to use this meeting as a mechanism to convert bargaining unit employees to nonbargaining unit positions within the shop. Acting on this concern, Cahill said he e-mailed Richard Harter, then the union steward, and Charles Roose, then acting chairman of the unit, and gave voice to his concerns, stating as follows:

> Subject APL for a Day
>
> We have a meeting/training session scheduled for APL Analysts "inquiry." It is for April 19th at 7:30 a.m. It is in Education 2K West Concourse. I think this is an area where they intend to try and convert BU's to NBU'S. Also, the supervision is going around canvassing people to see if they are interested in "other" jobs besides the one there [sic] in. Thought this might be important.
>
> Fraternally yours
>
> Bill[16]

Cahill said that he again e-mailed Harter and Roose on April 16, 2007, regarding the APL analyst matter, stating:

> Hi Rich and Charles,
>
> Below is the language of the "meeting" regarding the APL Analyst situation. This was the position that was used to create NBU's in Mr. Biezski's [Borowski's boss] last classic work of union busting. Most of us know how to use EBOM, most of us have been using it for years. I do not doubt the validity of needing to learn about the transition from VSC's to

[16] GC Exh. 6. Cahill sent this e-mail out to Harter and Roose on April 13, 2007.

NPS2 codes, but I think the rest of this is nonsense regarding this being a "career development opportunity". That is code for "do you want to leave the union". I would like to see some kind of union protest, I consider this to be a form of harassment. The already converted NBU'S are on the invitee list. They already possess a "higher skill set" than us, I would think they should know this stuff by now.

This class will discuss some of the common tasks performed by the APL Analysts. It will give our group the opportunity to learn more about EBOM, one of our key business tools that we use to create accurate graphics. It will also help us better prepare for the transition from VSC to NPS2 codes. Finally, it will give us more insights into the day-to-day functions of the APL analyst position. This may also help us better understand if the APL analyst role provides a career development opportunity.[17]

Yours in solidarity,

Bill

Cahill identified a copy of the APL analyst meeting invitation[18] he received for the April 19 meeting from Borowski. According to Cahill, the listed names included both bargaining unit and nonbargaining unit members in unit 1. At the time, according to Cahill, there were eight nonbargaining unit members in the EGIG department.

Cahill stated that he attended the April 19 meeting which was mandatory for all invitees,[19] which included all 33 bargaining unit members (graphic illustrators); two supervisors, Judy Petrovich and Randall Querro; John Borowski; Chuck Kedmick, a manager of the APL analysts; two APL analysts, Dennis Kosar and Jane Roeskl; and Charles Roose for the Union.

On or about May 24, 2007, Cahill said that he e-mailed to Harter a list of what he considered the major matters discussed at the April 19, 2007 meeting.

1. They are grade bands 90 and 91. (Career development opportunity.)
2. "It's not very exciting but provides a lot of opportunities" (Quote: Jane Roeske). (Career development opportunity.)
3. "You come in contact with many other people, and learn about other opportunities within the corporation" (Jane Roeske). (Career development opportunity.)
4. "They're always changing, always moving forward" (Quote: Jane Roeske).
5. Work in screens that we already use on a regular basis. ("Learn more about EBOM"?)
6. "We are frustrated with many of the same things you are in using the system" (Quote: Jane Roeske).
7. Reviewed the most common screens in EBOM that anybody who has ever used the system would know (Nothing new whatsoever. "Learn more about EBOM"?)
8. The NPS2 numbers are 8 digits. (Lots of info there.)
9. We don't have all the bugs worked out on them yet. ("Help us better prepare for the transition from VSC to NPS2 codes"?)[20]

Cahill testified that it was (and is) his belief that the bargaining unit members were being "harassed" because of the Company's continued attempts to convert bargaining unit members to nonbargaining unit positions. Cahill stated that this was the essence of his concerns he made to the union leadership, and he believed that the Union should file a grievance over the matter.[21]

Richard Harter testified that he has worked for the Respondent for about 23 years currently as a body designer. Harter stated that he is a member of Local 412, unit 1, and serves as the chairman of unit 1; he also serves as vice president of Local 412, having been elected to this position in May 2007. Prior to his election, Harter said that he was the chief steward for District 2, unit 1 of Local 412, a position he held for about 12 years.

Harter stated that Local 412 represents in unit 1 certain employees, the graphic illustrators which numbered at the time of the hearing about 27; Harter's duties and responsibilities as these employees' representative include contract and other negotiations with management, health and safety issues, handling grievances and special arbitrating and monitoring outsourcing, and other contractor issues. Harter noted that other employees in unit 1, more particularly the graphic artists and graphic analysts, are not bargaining unit members.

Turning to the issues at hand, Harter testified that he received several e-mails from Cahill in which Cahill expressed his concern that management was attempting to recruit bargaining unit members—the graphic illustrators—to nonbargaining unit positions, including the APL analyst position. According to Harter, Cahill was especially concerned about the April 19 APL meeting, to which he believed the Respondent invited only bargaining unit employees for the purpose of recruiting

[17] See GC Exh. 7. Cahill testified that the APL (advanced parts list) analyst position holder would essentially assemble a vehicle using the EBOM data base, especially where the vehicle is an upcoming or new model.

[18] See GC Exh. 24.

[19] Cahill stated that Julia Petrovich, manager and admitted supervisor in the department, came around and reminded him and others of the mandatory nature of the meeting. Cahill said he double-checked about the attendance requirement with his immediate supervisor, Randall Querro, also an admitted supervisor, who confirmed that the meeting was mandatory for all unit 1 members who were on the list.

[20] See GC Exh. 10.

[21] Notably, on April 19, 2007, Cahill later e-mailed Harter and Roose about the April 19 meeting and was concerned about what was going on in the unit.

Hi Rich,

I know your [sic] busy and I know I'm probably a pain in the behind, but I feel we in the union are being discriminated against. Judy and Randy both said that this meeting was mandatory, Judy purposely reminded us all during her bed check that everyone on the invitee list had to go. But I noticed the NBU boys weren't, even though they were on the list. They are not part of the union, but they are part of the department. So why do we have to go and not them. Is there some kind of grievance here. I'd be more than happy to file it, just tell me what to do.

See you tonight,

Bill

them to take nonbargaining unit jobs.

Harter said that prior to the meeting, on about April 18, he contacted Borowski by phone to discuss the purpose of the April 19 meeting. According to Harter, Borowski told him that the meeting was strictly educational and informational and designed to help his EGIG group understand the requirements of the APL group.

Harter conceded that because of a meeting conflict, he did not attend the APL meeting on April 19, although he was invited. However, referring to Cahill's 10:16 a.m. e-mail of April 19 to him (GC Exh. 9), Harter stated that the APL meeting and Supervisor Judy Petrovich's involvement with the meeting are the subject of the Union's information request of October 2, 2007, in paragraph 12 of the complaint which deals with a number of grievances filed by the Union.

Harter noted that Cahill's e-mail was not the only communication he received about the APL meeting. He noted that after the meeting, he received telephone calls from other graphic illustrators who were required to attend the meeting and who informed him that they, too, viewed the meeting as an attempt by the Company to entice the graphic illustrators to consider applying for the APL analyst job, a nonbargaining unit job. According to Harter, these members told him that pay grades and benefits were discussed by management at the meeting. Harter acknowledged that he also received Cahill's May 24, 2007 e-mail (GC Exh. 10) in which Cahill again expressed his concerns that management was trying to recruit graphic illustrators to join the APL group.

Harter stated that he requested of Borowski a copy of the APL presentation, especially the power point presentation, on May 4, 2007, because he believed that the presentation was not simply educational and/or informational, but was in fact part of a recruitment effort that covered pay grades and future opportunities with Chrysler for the attendees. Harter also noted that by May 4, 2007, five graphic illustrators had left the bargaining unit to take nonunion positions.[22]

Harter testified that on about July 14, 2007, he prepared a grievance against the Company on behalf of the graphic illustrators, alleging in essence that management's claim that the April 19 APL meeting was merely an educational meeting was actually a subterfuge, that in fact the meeting was a "sales pitch" to encourage the graphic illustrators to leave the Union; Harter accused the Company of union busting and bargaining in bad faith. According to Harter, this grievance[23] was not actually filed until August 3, 2007, by which date Michael Birr had been installed in his newly elected position of chief steward, the position Harter had vacated due to his elevation to chairman of District 2.

Harter noted that this grievance is connected to the "purpose and intent" preamble of the parties' collective-bargaining agreement and at the time of the hearing was at the second step of the contract grievance procedure.[24] Harter stated that his May 4 request for the power point presentation was also predicated in part on this purpose and intent language of the contract and partially because of the history in Borowski's department of graphic illustrators' being solicited to accept nonunion positions. Harter also testified that the May 4 request for APL power point presentation will also help advance the aforementioned grievance and possibly prove (or disprove) the Union's claim that the APL meeting was a recruitment tool and not educational as claimed by the Company.

Harter stated that aside from Borowski's response on May 16 and 22, in which he respectively acknowledged receipt of the May 4 request and denied on grounds of relevance, the request, the Company has not provided a copy of the complete APL presentation of April 19, 2007. Harter acknowledged that the Union did not make a response to Borowski's refusal to supply the information at that time.

Turning to the Union's October 2, 2007 information request, Harter explained that by the time of this request, the Union had prepared and/or filed a number of grievances on behalf of unit employees, including the aforementioned grievance number 07-1-2023, alleging that the Company had replaced bargaining unit employees by the individual employee's acceptance of a nonbargaining unit position; bargained in bad faith; had created a hostile work environment; harassed bargaining unit employees; and made veiled threats to bargaining unit employees.[25]

[22] Harter named Jamie Smith, Tim Feher, Brian Berlinger, Al Zieillppo, and Quintin Barber as graphic illustrator members who left their positions for other nonbargaining unit positions. Notably, all five of these persons were listed as invited participants to the April 19 meeting. See GC Exh. 24.

[23] The Harter/Birr grievance is number 07-01-2023 and is contained GC Exh. 11. Notably, Birr filed this grievance on August 3, and the Company through Borowski responded on August 16, 2007, with management essentially denying the Union's allegation.

[24] See GC Exh. 3, p. 2 of the pertinent collective-bargaining agreement, as follows:

> Purpose and Intent
>
> The general purpose of this Agreement is to set forth terms and conditions of employment, and to promote orderly and peaceful labor relations for the mutual interest of the Corporation, the employees The parties recognize that the success of the Corporation and the job security of the employees depend upon the Corporation's success in building a quality product and its ability to sell such product.
>
> To these ends the Corporation and the Union encourage to the fullest degree friendly and cooperative relations between their respective representatives at all levels and among all employees.

[25] See GC Exhs. 25, 26, and 28, copies of grievances filed by the Union Nos. 07–1–2024 through 07–1–2060, and 07–1–2063.

Grievances 07–1–2024 through 07–1–2030 (GC Exh. 25) allege that the Company failed to replace certain unit employees who accepted nonbargaining unit positions in violation of the provisions of M-9, II (D) of the collective-bargaining agreement.

Grievances 07–1-2031 through 07–1–2059 (GC Exh. 25) allege that management created a hostile work environment by soliciting bargaining unit employees to convert to nonbargaining unit positions and having such converted workers work "shoulder-to-shoulder" with the bargaining unit workers; by systematically converting bargaining unit employees to nonbargaining unit employees through offers of increased salaries, overtime, 401(k) matching, and lease cars; by harassing remaining bargaining unit members and telling them if productivity does not improve, all of these workers could be outsourced.

Grievance 07–1-2060 (GC Exh. 28) alleges that Manager Petrovich used veiled threats to bargaining unit members and created a hostile work environment, including threats to outsource their work, if productivity does not improve.

Harter stated that he prepared the Union's October 2 request for information for Birr to submit to the Company. Harter noted that in this letter he renewed his request for a copy of the April 19 APL presentation because the Company had never provided the information. Harter also noted that without the April 19 information the Union could not proceed to step two of the grievance procedure for grievance 07-1-2023. Harter added that by this time—October 2007—the Company had converted more graphic illustrators to nonbargaining unit positions, which fact influenced the filing of the grievances regarding this development.

Having explained the Union's request for the APL presentation materials (item 1), Harter went on to explain the Union's need for the other information[26] requested in the October 2 letter.

Regarding item 3, which essentially requested complaints leveled against six supervisors in the EGIG including Petrovich and Borowski, Harter testified that the Union needed the information because of the grievances filed in protest of the alleged harassment of the unit 1 supervisors. Harter tied this request to the purpose and intent provisions of the collective-bargaining agreement which in Harter's view, pursuant to the duty of the parties to bargain in good faith, requires the parties to "get along" with one another in the workplace. Harter noted that some of the filed grievances related to the supervisors' harassment of bargaining unit members.

Regarding item 5, which essentially called for the production of the names of and hours performed by employees in listed areas of corporate activities or responsibilities, Harter stated that the Union believed that the Respondent was violating provisions of the collective-bargaining agreement (GC Exhs. 3 and 4). Harter specifically implicated M-10, Memorandum of Understanding Sourcing and (S-1) Supplemental Agreement On Preventing Erosion of Bargaining Units of the collective-bargaining agreement in support of the Union's request for information in item 5.

Harter explained that M-10 (pp. 206–218 of the agreement) deals, inter alia, with outsourcing of unit work by the Company and essentially entitles the Union to certain information including the work planned for outsourcing, the cost of outsourcing, the employees affected, and a make-buy study so that the Union can make a counterproposal to keep the work in-house if economically feasible. Under the provisions S-1 (pp. 264–268), according to Harter, the Company agreed not to reassign bargaining unit work so as to erode bargaining covered by the collective-bargaining agreement, and per the provisions of S-1, the Company could only make geographic, organizational, or financial moves for certain stipulated reasons. The Union's request was designed to determine if the departments listed in the request were now under a different manager and whether he had been moved out of state.

Harter identified certain documents[27] dating from calendar 2006 and 2007 dealing with, inter alia, departmental organization, the work of the graphic illustrators, outsourcing, and emanating from the Local Employee Participation Council, a joint employee-management program whose objective is to deal with productivity issues.

Harter tied these documents to the Union's request in item 5 of the October 2 letter, stating that these documents relate to all the "responsibilities" included in the letter as identified through the LEPC as bargaining unit responsibilities. Harter said that the Union needed the requested information to determine who might be working on plans to outsource these responsibilities, whether nonunion employees were performing the work for purposes of any grievance alleging erosion.

Harter cited by way of hypothetical example, if the sales and marketing work were historically performed by senior workers but the proposed transfer of the work was to nonunion personnel, then a possible violation of the nonerosion provisions of the collective-bargaining agreement—S-1—could be implicated. Accordingly, the Union made the request for information under item 5 to shed light on this issue.

Harter stated that he received a copy of Borowski's response (GC Exh. 18) to Birr's request of October 2, on or about December 7, 2007. He noted that at no time between October 2 and December 7 did Borowski's request the Union to clarify or "narrow" its request, especially as it relates to item 5 which the Company stated was overly broad and had no nexus to any matter within the scope of the bargaining unit.

However, Harter identified certain documents—meeting notes—which came to his attention in November 2007; these documents pointed to a possible outsourcing of bargaining unit work by the Respondent. Harter noted that the meeting notes indicated that the subjects or topics included international engineering discussion; engineering international organizational review of study teams work and next step; global business model project measures and incentives, global business model project-product team; and structure and organization.[28]

Harter noted that first Borowski was part of the management group involved in the meetings and discussions about international engineering and in fact chaired some of the meetings. Harter stated that for the Union these notes triggered a sincere concern that bargaining unit work was possibly scheduled for possible outsourcing to a foreign country, possibly China.[29]

Grievance 07–1-2063 (GC Exh. 28) alleges that the Company created a hostile work environment by manning the EGIG with unqualified supervision that exhibited a pattern of harassment, dual supervision, and antiunion behavior to bust the Union.

[26] Harter testified that item 2 of the October 2 letter is not a part of the proceeding. (Tr. 92.) I will treat this as a withdrawal by the Union of the request for the information called for in item 2 (educational training) of the October 2 request. In likewise, the General Counsel had indicated in his brief that item 4 of the October 2 request is not part of the instant proceeding. I will also treat item 4 as withdrawn for purposes of this litigation.

[27] See GC Exhs. 19(a)–(c).

[28] See GC Exh. 19. These meeting notes covered the period July 2 though September 24, 2007. The notes were admitted based on their being business records maintained by the Respondent.

[29] The meeting notes indicate that on July 13, 2007, the agenda for the first meeting of the Global Business Model Projects Measures and Incentives was as follows:

- Review VP Workshop results on failed post attempts to go global
- Discuss any other issues that may have been overlooked
- Perform a group exercise in an attempt to get to the root

Turning to the October 3 request for information, Harter stated that this missive also related in item 1 to the Union's concern not only about possible outsourcing of bargaining unit work as per M-10 of the contract but also offloading (temporary outsourcing where the bargaining unit employees have more work than they can handle) of unit work.

Harter said item 2 of the letter also deals with the outsourcing/offloading of EGIG work, including the MSX agreement which relates to another facility located in Troy, Michigan.

Regarding item 3 of the letter, Harter stated this was a repetition of item 2 and should be disregarded.

Harter testified that as with the Union's other requests for information, the Respondent has not provided any information and made no effort to seek clarification or narrowing of the Union's requests and has not communicated with the Union about the requests since December 7, 2007.

Michael Birr testified at the hearing and related that he has been employed by the Respondent since 1981, and as a designer he is a member of the bargaining unit encompassed by unit 1; Birr currently is the steward for unit 1.[30]

Birr confirmed that the grievances (related to the October letter) were filed because the former unit members not only were moved to nonunion positions,[31] with more favorable hours and better computers, but also were assigned in close proximity to the remaining unit members. Birr said that he received numerous complaints from bargaining unit members about this situation which included taunting by the former bargaining unit members of the unit members and in general caused a very tense work environment for all. Birr also confirmed that a number of the grievances related to what the Union viewed as the Respondent's creation of a hostile work environment through the supervisors, particularly Judy Petrovich, but others also who were reprimanding unit members not under their supervision—dual supervising—and generally harassing the bargaining unit members. According to Birr, the Union required the information sought in the October 2 letter to establish through the grievance mechanism all of the allegations in the respective grievances.

Birr also confirmed that the Union's requests were predicated on various provisions of the collective-bargaining agreement, including the purpose and intent, and unit erosion, and outsourcing provisions.

causes of resolvable issues of past barriers.

- Discuss meeting frequency on an ongoing basis Borowski is listed as an invitee to this meeting. Borowski also chaired a meeting, the subject of which was "discuss International Engineering with Todd Breneiser on July 18, 2007." The notes indicate as follows:

Discuss aspects of an engagement with China as a followup to our initial discussionswith Todd and Bill Russo on July 11.

[30] Birr stated that his duties include representing about 70 bargaining unit members, carrying out and enforcing daily the collective-bargaining agreement, and handling complaints between management and unit employees. Birr said he has been in this position for about 9 months.

[31] Birr related that the individual worker is named in grievances 07-21-2024 through 2030 left the bargaining unit for a permanent nonbargaining unit position.

V. APPLICABLE LEGAL PRINCIPLES

In *Disneyland Park*,[32] the Board set out long-established principles applicable to information request cases brought under Section 8(a)(5) and (1) of the Act.

An employer has the statutory obligation to provide, on request, relevant information that the union needs for the proper performance of its duties as collective-bargaining representative. *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149, 152 (1956); *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 435–436 (1967). *Detroit Edison Co. v. NLRB*, 440 U.S. 301 (1979). This includes the decision to file or process grievances. *Beth Abraham Health Services*, 332 NLRB 1234 (2000). Where the union's request is for information pertaining to employees in the bargaining unit, that information is presumptively relevant and the Respondent must provide the information. However, where the information requested by the union is not presumptively relevant to the union's performance as bargaining representative, the burden is on the union to demonstrate relevance. *Sunrise Health & Rehabilitation Center*, 332 NLRB 1304 (2000); *Associated Ready Mixed Concrete,* 318 NLRB 318 (1995), enfd. 108 F.3d 1182 (9th Cir. 1977); *Pfizer, Inc.*, 268 NLRB 916 (1984), enfd. 736 F.2d 887 (7th Cir. 1985). A union has satisfied its burden when it demonstrates a reasonable belief, supported by objective evidence, that the requested information is relevant. *Knappton Maritime Corp.*, 292 NLRB 236, 238–239 (1988).

Furthermore, the Board instructs that the requesting union's explanation of relevance must be made with some precision; and a generalized conclusionary explanation is insufficient to trigger an obligation to supply information.[33]

The Board has held that information concerning bargaining unit employees is presumptively relevant and is required to be produced. *Contract Flooring Systems*, 344 NLRB 925, 928 (2005).

Where the information sought concerns the filing or processing of grievances, the requesting union is entitled to the information in order to determine whether it should exercise its representative function in the pending grievances, or whether the information will warrant further processing of the grievance or bargaining about the matters involved with the grievance. *Ohio Power Co.*, 216 NLRB 987 (1975), enfd. 531 F.2d 1381(6th Cir. 1976).

Accordingly, a union is entitled to relevant information during the term of a collective-bargaining agreement to evaluate or process grievances and to take whatever other bona fide actions are necessary to administer the collective-bargaining agreement. *Reno Sparks Citilift*, 326 NLRB 1432 (1998).

Information about subcontracting agreements, even those re-

[32] 350 NLRB 1257 (2007).

[33] *Island Creek Coal Co.,* 292 NLRB 480, 490 fn. 19 (1989). See *Schrock Cabinet Co.*, 339 NLRB 182, 182 fn. 6 (2003). It should be noted that the obverse side of this legal coin requires the employer from whom information is sought to substantiate the claimed basis for nonproduction, seek a narrowing or clarification of the union's request if it is overly broad, burdensome, or presents undue financial burden; seek protection if the production involves confidential (proprietary) information. See *Island Creek Coal Co.*, supra; *Pulaski Construction Co.,* 345 NLRB 931 (2005), *Watkins Contracting, Inc.*, 335 NLRB 222 (2001); *Earthgrains Baking Cos.*, 327 NLRB 605 (1999).

lating to bargaining unit employees' terms and conditions of employment, is not presumptively relevant. Therefore, a union seeking such information must demonstrate its relevance. *Sunrise Health & Rehabilitation Center*, above at 1305 fn. 1.

The Board uses a broad, discovery-type standard in determining the relevance of requested information. Potential or probable relevance is sufficient to give rise to an employer's obligation to provide information. Id. To demonstrate relevance, the General Counsel must present evidence either (1) that the union demonstrated relevance of the nonunit information,[34] or (2) that the relevance of the information should have been apparent to the Respondent under the circumstances. See *Allison Corp.,* 330 NLRB 1363, 1367 fn. 23 (2000); *Brazos Electric Power Cooperative,* 241 NLRB 1016–1019 (1979), enfd. in relevant part 615 F.2d 1100 (5th Cir. 1980). Absent such a showing, the employer is not obligated to provide the requested information.

When the union's request for information involves matters outside the bargaining unit, thereby making the burden or requirement that it demonstrate relevance of the information sought, the union's burden is not an exceptionally heavy one, essentially only requiring a showing of probability that the desired information is relevant and that it would be of use to the union in carrying out its statutory duties and responsibilities. *NLRB v. Acme Industrial Co.*, supra at 437.[35]

In *Collyer Insulated Wire*, 192 NLRB 837 (1971), the Board adopted standards that would apply to unfair labor practice cases where the Board would defer to parties the arbitral machinery before an arbitral award has been rendered. Notably, *Collyer* has received wide acceptance by the reviewing courts. The *Collyer* "standards" for deferral are as follows:

> 1. whether the dispute arose within the confines of a long and productive bargaining relationship and there is no claim of enmity by the respondent (employer) to employees' exercise of protected rights;
>
> 2. whether the employer credibly asserted its willingness to resort to arbitration under a clause providing for arbitration in a very broad range of disputes and unquestionably broad enough to embrace the dispute before the Board; and
>
> 3. the conduct and its meetings lay at the center of the dispute.

Historically, the Board has excluded from *Collyer* deferral alleged refusals to furnish information,[36] and will refuse to defer when the applicable collective-bargaining agreement contains no provision with regard to information disputes.[37] Consistent with this approach, the Board, in *United Aircraft Corp*, determined that there was specific language in the collective-bargaining agreement concerning the obligation to furnish information, and that such procedure provided a quick and fair means to resolve the dispute.[38]

However, it would appear that if the contract is silent or does not contain a clear and effective waiver of the union's right to the requested information, the Board will not defer. *American Standard*, 203 NLRB 1132 (1973); *United Parcel Service*, 311 NLRB 974 (1993).

The Board, it would appear, views deferral in information cases as inappropriate because the refusal to furnish relevant information constitutes interference with the very grievance procedure to which the employer often urges deference. *St. Joseph's Hospital*, above.

VI. CONTENTIONS OF THE PARTIES

The General Counsel essentially contends that beginning with the Union's May 4 request and continuing through December 7, the Respondent has failed to provide the Union with information clearly necessary and relevant to carry out its duties as the exclusive collective-bargaining representative of the unit 1 employees.

The General Counsel asserts that the Union's duties and responsibilities implicated in its request for the pertinent information include enforcing the parties' collective-bargaining agreements and jointly administered programs; processing grievances concerning unit erosion, harassment, creation of a hostile work environment, and threats; and to determine whether the Union should file additional grievances to enforce the collective-bargaining agreements.

The General Counsel further asserts that not only has the Respondent refused to provide any of the requested information, it has not even attempted either to narrow or seek clarification of the Union's requests, which, if it had, would be emblematic of good-faith bargaining.

The General Counsel notes that in showing nothing by way of cooperation with the Union, the Respondent merely responded with naked, boilerplate assertions of the nonrelevance of the information sought. At the trial, its untimely and insincere argument was that the entirety of the requests should be deferred to the parties' contractual grievance arbitration process based on a purported prior agreement—acting as a waiver—to forward information requests to the parties' leadership prior to filing any unfair labor practice regarding information requests.

The General Counsel submits that the Respondent has not offered a defense sufficient to overcome its clear obligation under the Act to provide the information requested by the Union. Accordingly, the General Counsel argues that the Respondent violated Section 8(a)(1) and (5) of the Act.

The Respondent principally[39] argued that the allegations of

[34] The Board noted further in *Disneyland Park* that it will apply a uniform standard for evaluating the relevance of information requests involving matters outside the bargaining unit.

[35] See also *St. George Warehouse, Inc.*, 341 NLRB 904, 925 (2004), citing *Hertz Corp.*, 319 NLRB 597, 599 (1995), where the union's showing of relevance was deemed not exceptionally heavy and would be satisfied by some initial but not overwhelming demonstration by the union.

[36] *NLRB v. David, Inc.*, 597 F.2d 782 (1st Cir. 1979); *St. Joseph's Hospital*, 233 NLRB 1116 (1977); *A. O. Smith Corp.*, 223 NLRB 838 (1976); *Worcester Polytechnic Institute*, 213 NLRB 306 (1974).

[37] *Team Clean, Inc.*, 348 NLRB 1231 (2005); *Daimler Chrysler Corp.*, 344 NLRB 312 (2005).

[38] 204 NLRB 879 (1972), rev. denied sub nom. *Machinists Lodges 700, 743, 746 v. NLRB*, 525 F.2d 237 (2d Cir. 1975).

[39] The Respondent, for the first time, at the hearing asserted that three of the Union's charges were untimely filed per Sec. 10(b) of the

the complaint in their entirety should be deferred to the parties' collective-bargaining agreement pursuant to the Board's *Collyer* policy. The Respondent alternatively contends that the Union's requests are not relevant to legitimate union interests; the Union failed to demonstrate the relevance of the information it requested on October 2; and under the circumstances of this case, the Respondent was under no duty to supply the information requested by the Union on October 3. Accordingly, the Respondent submits that it has not violated the Act in any way.

Conclusions

Based on the above-stated Board authorities, and in agreement in general with the General Counsel, I would find and conclude that the Respondent violated the Act by not providing the information requested by the Union on May 4 and October 2 and 3.

First, I note that the Respondent in its responses to the Union's written requests never raised the issue of deferral. In this regard, this defense seems contrived and certainly was untimely made. In likewise, the Respondent at no time prior to trial introduced any purported letter agreement between the Union and the Respondent regarding the handling of information requests. The letter for the first time was introduced at the trial and the union representatives had never seen it. Verily, I have carefully examined the pertinent collective-bargaining agreements and no such letter appears.[40]

Be that as it may, in my view, any such agreements would have no legal efficacy. Significantly, Harter, who held responsible positions with the Union, had no knowledge of any such agreement between the Union and the Company regarding information requests and the filing of unfair labor practices based thereon. Richard Corning, the Respondent's manager of employee relations, testified only that the letter[41] purporting to encompass the parties' agreement regarding information requests was part of the Company's records; he could add nothing further of significance to the case and the information requests in particular. Notably, neither this letter nor any agreement relating to it was ever mentioned by Borowski in his responses to the Union's requests.

Accordingly, the letter agreement in my view is an insufficient reason or defense to the Respondent's failure to provide the information requested by the Union.

The Respondent contends that the parties' agreement contains specific provisions—in the M-10 and S-1 agreements—pertaining to providing the Union with necessary and relevant information, and therefore obviates the Union's need for the information requested in the Union's submissions of October 2 and 3. While clearly the provisions of M-10 dealing with outsourcing, and S-1 dealing with unit erosion, do provide a procedure for dealing with these issues through the advance notice of contemplated outsourcing and the submission of reassigned work to the grievance procedure, these provisions do not in my view obviate the Union's requests for the sought-after information on these subjects. Notably, if the information requests were granted, the Union may decide that there was no violation of these provisions and thus obviating any recourse to the contract mechanisms. Information requests often may lead to findings of no violations of contract provisions and in this fashion may be a more expedient and less cumbersome approach to resolving contractual issues than the grievance procedure.

It seems to me the Respondent has taken what I consider an erroneous view of just what the Board considers the thrust and spirit of information requests in the context of the parties' collective-bargaining relationship. The Board authorities make clear that essentially information requests are to serve as an aid to the Union in policing and enforcing the applicable collective-bargaining agreement. In this process, the merits of a particular issue underlying the requests are not necessarily reached, although sought-after information may assist in the resolution of pending grievances. Therefore, the test is relevancy of the request to the duties and responsibilities of the Union to represent the interests of covered employees, and not to whether the employer has violated provisions of the contract.

In my view, here, the Respondent's argument is rather circular, especially in the context of this case where the information sought in part relates to pending grievances, and yet the Respondent proffers that the grievance process will yield the requested information.

As to the Respondent's deferral argument, in agreement with the General Counsel, I note that the Board traditionally eschews the application of *Collyer* to information cases. I would find and conclude for the reasons cited by the General Counsel that deferral is inappropriate in this case. I note specifically that in this case, the controversy here does not rest or turn on contractual issues such as one calling for an interpretation of pertinent contract terms or provisions. Here, the information being sought relates to whether and if the Respondent has possibly violated the contract provisions relating to purpose and intent;[42] erosion of the unit, outsourcing of unit work; but also harassment by supervisors, all of which relate to the Union's duties to police and enforce the parties' agreement and to represent the interests of the covered employees.

It seems abundantly clear to me that the Union's requests for

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Act. This position cannot be maintained in my view, first, because the Respondent did not assert this defense in its answer and therefore this defense is untimely. But more importantly of the charges that arguably could be considered untimely—mainly the alleged failure to provide information regarding the APL presentation on May 4—this charge was incorporated in subsequent information requests, which clearly were timely filed. For that reason also, this defense is without merit.

[40] It is useful to mention that the parties' collective-bargaining agreements contain numerous "letters" that purport to be agreements between the parties regarding selected subjects. There are no such letter agreements purporting to deal with information requests.

[41] See R. Exh. 1.

[42] The Respondent views the purpose and intent language as a mere "preamble" to the parties' agreement, and as such does not relate to the enforcement of a particular section of the substantive terms of the contract. For purposes of the contractual grievance process, I would disagree with this characterization. The purpose and intent clause is clearly a part of the parties' agreement and irrespective of its not having a "section" designation, a remedy for the violation in my view could be fashioned at the grievance level, if only to call for the offending party to cease and desist from engaging in specific conduct deemed to be contrary to "friendly and cooperative relations."

information relate in part to unit employees and therefore, to that extent, are presumptively relevant. The Union established clearly and well that its concerns were based on the Company's suspected attempt to recruit bargaining unit employees for non-unit jobs and that the April 19 presentation was designed to meet that end; furthermore, the grievance filed by it to meet this concern is pending because of the Company's failure to provide the power point presentation in particular.

As to the Union's request for complaints leveled against the EGIG supervisors by any and all employees under their supervision, these clearly related to grievances filed and pending under the contract. Accordingly, the relevance of the request is established, and, moreover, is clearly a legitimate subject of the Union's interest.

In likewise, the Union adequately explained the reason for its request for information regarding the number of hours worked by employees in various areas of the Respondent's operations, tying the request to its need to enforce the outsourcing provisions of the collective-bargaining agreement. In this fashion also, the Union more than adequately established the relevancy of the information request as well as the legitimacy of its need for the information to look out for the interests of represented employees.

Regarding the October 3 request, here, too, the Union adequately tied its request to the M-10 provisions of the agreement which, in my view, satisfies the Board's broad discovery standard for relevance, and is consonant with the Union's legitimate need to assure the employees it represents that the Company was in compliance with pertinent provisions of the contract, here the outsourcing provision.

CONCLUSIONS OF LAW

1. By failing and refusing to provide the Union, in writing, with the information requested in its information requests of May 4 and October 2 and 3, 2007, the Respondent has unlawfully refused to bargain with the Union and has violated Section 8(a)(5) and (1) of the Act.

2. The unfair labor practices described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

3. The Respondent has not violated the Act in any other manner or respect.

THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and take certain affirmative action designed to effectuate the policies of the Act, to include furnishing (consistent with this decision) the requested information to the Union, and post an appropriate notice.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[43]

[43] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

The Respondent, Chrysler, LLC, Auburn Hills, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO by refusing to furnish it with information that it requests that is relevant and necessary to the Union's performance as the collective-bargaining representative of the Respondent's bargaining unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Promptly furnish the Union with the relevant portions of the information requested in its May 4 and October 2 and 3, 2007 correspondence.

(b) On request, bargain collectively in good faith with the Union with regard to wages, hours, and other terms and conditions of employment of employees in the appropriate unit specified in the collective-bargaining agreement between the Respondent and the Union.

(c) Within 14 days after service by the Region, post at its Auburn Hills, Michigan facility copies of the attached notice marked "Appendix."[44] Copies of the notice, on forms provided by the Regional Director for Region 24, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all employees and former employees employed by the Respondent in the bargaining unit pertinent herein.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 9, 2008

[44] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO by refusing to furnish it with information that it requests that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights set forth above.

WE WILL promptly furnish the Union with the relevant portion of the information requested in its correspondence of May 4 and October 2 and 3, 2007.

CHRYSLER, LLC